



Gender Justice Mapping & Assessment in Jordan

**Child-Sensitive and Victim-Centered Approaches and Procedures in
the Justice System** (*Criminal and Personal Status Jurisdictions*) for GBV
survivors



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Acronyms and Abbreviations

A2J	Access to Justice
ARDD	Arab Renaissance for Democracy & Development
AWLN	Arab Women’s Legal Network
CEDAW	UN Convention on the Elimination of Discrimination Against Women
CRC	UN Convention on the Rights of the Child
FPD	Family Protection Department
GBV	Gender-Based Violence
JCLA	Justice Center for Legal Aid
KII	Key Informant Interview
MENA	Middle East and North Africa
MoE	Ministry of Education
MoH	Ministry of Health
MoJ	Ministry of Justice
MoSD	Ministry of Social Development
National SOP	National Standard Operating Procedures for GBV, Family Violence and Child Protection ¹
NCFA	National Council for Family Affairs
NGO	Non-Governmental Organization
NFFPV	National Framework for Family Protection against Violence ²
PSD	Public Security Directorate
Tdh	Terre des hommes
UN	United Nations

¹ The official title of these SOP is Policies and Guiding Principles for the Prevention of and Response to Violence in Jordan (Gender-Based Violence, Family Violence, and Child Protection), 2018.
² Second edition of 2016.

Glossary of Key Terminology

Access to Justice (A2J)	[For children] The ability to obtain a just and timely remedy for violations of rights as put forth in national and international norms and standards, including the Convention on the Rights of the Child. It applies to civil, administrative and criminal spheres of national jurisdictions, including customary and religious justice mechanisms, international jurisdictions, as well as alternative and restorative dispute resolution mechanisms, and covers all relevant judicial proceedings, affecting children without limitation, including children alleged as, accused of, or recognized as having infringed the penal law, victims and witnesses or children coming into contact with the justice system for other reasons, such as regarding their care, custody or protection. ³
Child vs. youth / young person	Both the terms ‘child’ and ‘youth’ or ‘young person’ are used in this report, a child referring to any person below the age of 18, and youth or young person to any person between ages 15-24. ⁴
Child-sensitive	An approach that gives primary consideration to a child’s right to protection and that takes into account a child’s individual needs and views. ⁵
Gender-based violence (GBV)	An umbrella term for any harmful act that is perpetrated against a person’s will and that is based on socially ascribed (i.e., gender) differences between males and females. ⁶ This term, rather than the term ‘Sexual and Gender-Based Violence’ (SGBV), is used to clarify that sexual violence is a component of GBV and not a separate issue. ⁷
Gender-responsive justice	Ensuring that laws, justice institutions, justice processes and justice outcomes do not discriminate against anyone on the basis of gender. It necessitates taking a gender perspective on the rights themselves, as well as an assessment of access and obstacles to the enjoyment of these rights by women and men, girls and boys, and adopting gender-responsive strategies for protecting and promoting them. ⁸
Judiciary	This term is used to indicate: (1) the branch of authority in a country which is concerned with law and the legal system; (2) the system of courts of justice in a country; and (3) judges collectively. ⁹ Although public prosecutors in Jordan are officially judges who are appointed as prosecutors ¹⁰ , and although the public prosecution office is not independent from the judiciary in that it reports on all judicial matters to the High Judicial Council ¹¹ , the prosecution is not considered to be part of the Judiciary as defined herein.
Survivor / Victim	A person who has experienced GBV may be referred to as ‘victim’ or ‘survivor.’ ‘Victim’ is a term often used in the legal and medical sectors, while the term ‘survivor’ is generally preferred in the psychological and social support sectors because it implies resiliency. ¹² This report predominantly uses the term ‘victim,’ which is in no way meant to diminish the agency, autonomy and resilience of individual victims. See also the explanation on usage of both terms in the Introduction.
Youth / young person	See under ‘Child vs. youth / young person’ above.

³ Tdh (2020a).
⁴ Youth as defined by the UN: <https://www.un.org/en/sections/issues-depth/youth-0/#:~:text=For%20statistical%20purposes%2C%20however%2C%20the,of%2015%20and%2024%20years.>
⁵ UNODC (2009), p.5.
⁶ IASC (2015), p.5.
⁷ See <https://www.endvawnow.org/en/articles/1474-terminology-and-definitions.html>.
⁸ UNODC (2019), p.x.
⁹ UNODC (2019), p.xi.
¹⁰ Criminal Procedure Law No. 9 of 1961, as amended. See also EMHRN (2008), p.29.
¹¹ EMHRN (2008), p.29.

Executive Summary

The political landscape in Jordan has over the past years shyly been shifting towards the acceptance of a more gender-responsive justice approach and there is growing recognition in the country of the importance to address gender-based violence (GBV) particularly against women and girls, without forgetting the male survivors as well. Relevant legal reform in country is, however, not necessarily conducted with child-related specializations and safeguards in mind.

Tdh designed this study to establish the key actors related to the formal justice system in Jordan that do or could advance child-sensitive justice that is gender-responsive, especially for child victims and witnesses of GBV, and to have an overview of existing child-sensitive and victim-centered procedures and practices of the Jordanian formal justice system, whereby highlighting gaps and/or flaws compared to international laws and standards. The overall aim of such a combined mapping and assessment is to provide actionable recommendations that may inform strategic and impactful programming and advocacy actions with key stakeholders in country. The study is grounded in an in-depth desk-based research combined with key informant interviews (KIIs) with identified national stakeholders.

Following an introduction to the study, which details the methodology and conceptual framework – importantly, study purpose; guiding principles; data collection; existing limitations (Section 1), an overview is provided of the international as well as Jordanian national most relevant regulatory frameworks for child and youth victims and witnesses of GBV (Section 2). Comparative review of these frameworks reveals that child victims and witnesses are not consistently considered throughout the Jordanian legal and policy framework. The report then details the key actors and their respective roles vis-à-vis child or youth victims and witnesses of GBV in the justice process, with specific focus on the actors of the formal justice sector but also the required interdisciplinary approach to be followed (Section 3); and the judicial pathways for child and youth victims and witnesses under the criminal and personal status jurisdictions, whereby considering to what extent relevant key legislative elements for child-sensitive, victim-centered justice

are respected throughout the justice process phases (Section 4). Based on this mapping of key actors and assessment of judicial pathways and informed by relevant guiding principles, conclusions and recommendations are presented (Section 5).

Conclusions and recommendations

There are significant barriers for child victims and witnesses to access gender- and age-responsive justice, importantly a lack of infrastructure; lack of relevant practical guidance; insufficient interaction between jurisdictions; limited skills of and prevalent gendered laws and beliefs among justice personnel. Although policies and procedures for dealing with GBV cases are mostly in place and generally in line with international standards, these do not comprehensively include all due safeguards pertaining to child victims and witnesses. Also, they do not foresee in a holistic and well-coordinated approach vis-à-vis child victims of GBV who are facing justice procedures, which negatively affects their ability to reintegrate; and legal dispersal of child rights results in a lack of judicial protection for child victims and witnesses facing justice proceedings. This is exacerbated by the fact that personal status justice actors are not actually mandated to report cases of GBV.

To foster the agenda for gender-responsive, child-sensitive and victim-centered justice in Jordan, and based on the evidence gathered through this study, 10 key recommendations are brought to light:

1. Establishment of a regulatory framework vis-à-vis child victims and witnesses.

Child rights are dispersed over different laws, and relevant policy and guidance does not comprehensively consider the needs of child victims and witnesses of GBV. Specific justice-related rights of child victims and witnesses are not currently inexistent within the Jordanian regulatory framework, including reintegration of child GBV victims within the justice chain and post-trial, dual standard victim-offender, secondary victimization risk management plans, etc. A targeted national policy with detailed guidelines for

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Tdh hopes that this study fosters gender justice in Jordan, through an evidence-based approach. It aims at being the first stone in the way to better uphold the rights of girls, boys, and young women and men by specializing the justice apparatus with age-appropriate and victim-centered practices.

relevant actors within both jurisdictions would help to ensure that the rights of this group are upheld and respected.

2. Build expertise on gender-sensitive interviewing practices and gender-sensitive witness protection frameworks at the judiciary level.

Special investigative and interview techniques must be developed and carefully supervised and should include a gender analysis to inform their design and application in order to assess their impact and reliance. Operational toolkits are to be developed and worked with the concerned actors.

3. Enhancement of coordination among the different jurisdictions.

Whereby building on the relatively new FPD practice of conducting conferences with judges of both jurisdictions, e.g., supporting development and rollout of procedural guidelines.

4. Ensuring that dispute settlement practices in domestic violence cases meet relevant child related minimum standards.

There are serious concerns for example related to the safety of the victim, which need to be addressed urgently, for example through capacity building and development of practical guidance.

5. Capacity building of the judiciary (criminal jurisdiction) on interpreting and applying laws in a child-friendly, gender-responsive and victim-centered manner, particularly as they relate with the judicial treatment of child victims and witnesses.

As a need and willingness are confirmed, it could jointly be further explored with judges that are already collaborating with Tdh, which specific areas to address.

6. Enhancement of professional practice for reintegration of child victims of GBV.

Reintegration of victims of GBV and specifically child victims is not mainstreamed in the justice process. For child victims of GBV to be able to reintegrate, different stakeholders must connect in the justice and social (including child protection) sectors. Such

connection needs to happen at national policy level including development of technical guidance coupled with capacity building of relevant actors. A resilience-based approach towards the reintegration of children in contact with the law (victims and witnesses) that are GBV survivors is lacking and requires to be urgently addressed within this process.

7. Establishment of specialized legal aid for child victims of GBV.

At present, there are no lawyers or organizations that focus on supporting child victims of GBV. Such specialized assistance is essential for ensuring that children's rights are upheld, and their needs met. Key actors such as the Jordanian Bar Association can be supported in this regard.

8. Strengthening of complaints mechanism on maltreatment in the justice process.

Lack of awareness among the general public in this regard needs to be tackled; working with judicial inspectors could be a good entry point to support accountability in terms of child-sensitive and victim-centered policies and processes.

9. Exploration of potential activities with personal status actors.

Although there are no clear entry opportunities, this should be further explored. To start building report, activities around skills building in child-sensitive and victim-centered ways of working could be coupled with material support type activities.

10. Working with youth, including through student associations and the media.

More targeted initiatives could be explored and implemented together with youth, around issues such as raising awareness on rights and duties vis-à-vis GBV and avenues for justice.

1 Introduction

Terre des hommes (Tdh) is a leading Swiss child-relief agency with a mandate to protect the world's most vulnerable children, including those who come into contact with the justice system as (alleged) perpetrators, victims or witnesses of a crime. Through its Access to Justice (A2J) Program, Tdh aims to ensure that these children have access to their rights by promoting restorative juvenile justice as well as victim-centered approaches at the nested levels of the individual child, family, community and society.

Tdh established its A2J Program in Jordan in 2015. In addition to working with different stakeholders to ensure that child justice standards stipulated by the Convention on the Rights of the Child and other international instruments are met, the Tdh Jordan delegation focuses on supporting the realization of laws, justice institutions, justice processes and justice outcomes that do not discriminate against anyone on the basis of gender. A Gender Justice Thematic Approach was developed and operationalized within Tdh's A2J Program in the Middle East and North Africa (MENA), including Jordan, in 2018. It focuses on: (i) advancing the justice, (ii) upholding the rights of the girls and young women GBV survivors/victims in justice procedures, whether formal or customary, with a particular focus on child marriage, (iii) fostering the Women, Peace and Security agenda in the region as relates to justice and peacebuilding processes and (iv) supporting youth feminist organizations and social movements in MENA. Given the pivotal role of the justice system in the response to children and youth in contact with the law including those affected by gender-based violence (GBV), Tdh Jordan Country Office directs its efforts towards strengthening gender-responsive and child-sensitive approaches among the different institutions that make up the justice system.

The political landscape in Jordan has over the past years shyly been shifting towards the acceptance of a more gender-responsive justice approach; also, there is growing recognition in the country of the importance to address GBV against women and girls. This is evidenced by the abolishment in 2017 – following extensive advocacy efforts of various civil society actors – of article 308 of the Penal Code, which allowed for a perpetrator of sexual abuse including

rape to avoid punishment if they married their victim. Another example is the amendment of article 98 of the Penal Code, which allows for reduction of penalty for someone who committed a crime of passion: In 2017, a clause was added to prevent it from being used in the case of honor crimes. Such legal reform is however not necessarily conducted with child-related specializations and safeguards in mind.

A lot of work remains to be done to ensure that girls and boys in Jordan who are in contact with justice systems (in both the criminal and personal status spheres) are treated in an age-appropriate, non-discriminatory manner and receive services that are tailored to their needs and best interests. For child victims of GBV – male and female – in particular there is a long way to go to ensure proper redress. Those working with children in contact with the law and justice sector personnel in particular are uniquely placed to facilitate this process. However, they often have deep-seated patriarchal values that may hinder their duty to ensure that possible prejudices and harmful age and gender stereotypes do not influence proceedings or GBV victims' credibility and lack practical guidance in this regard.

1.1 Methodology and conceptual framework

In light of the tentative opportunities that have presented themselves in Jordan to bolster gender-responsive justice approaches on the one hand, and entrenched gender and age stereotyping practices by justice sector personnel on the other, Tdh Jordan commissioned this study to ensure a comprehensive understanding of the lay of the land to developed qualified knowledge for the public as well as effectively inform its programming and advocacy efforts.

1.2 Purpose of the study

The purpose of the study is twofold. Firstly, the study serves to establish which are the key actors within (or related to) the formal justice system in Jordan that do or could advance child-sensitive justice that is gender-responsive, in particular for child and youth victims and witnesses of GBV (mapping). Secondly, the study aims to provide an overview of existing child-sensitive and victim-centered procedures and practices of the Jordanian formal justice system, whereby highlighting gaps and/or flaws as compared to applicable regional and international regulatory frameworks as well as 'soft law' standards (assessment).

The overall aim of such a combined mapping and assessment is for Tdh to identify areas where more in-depth, targeted research will be useful to support the advancement of the gender justice agenda in Jordan, especially as relates to children. This study aims to provide actionable recommendations to provided qualified knowledge to the public as well as to inform strategic and impactful programming and advocacy actions with key stakeholders in country.

A note on the usage of the term ‘victim’ versus the term ‘survivor’

In this report, the term ‘victim’ is predominantly used. This term (rather than the term ‘survivor’) is typically used when referring to aspects of the criminal justice system. Moreover, ‘victim’ can be used in reference not only to those who have been victims of crimes and violations of sexual violence, but may also include their family and community members, including children born as a result of pregnancy from rape. Importantly, the term ‘victim’ refers to individuals that have both survived sexual violence, and those that did not. The use of the term victim rather than survivor is in no way meant to diminish the agency, autonomy and resilience of individual victims, which using the term survivor arguably better captures. However, to be in line with the purpose of this study – to map the main formal justice sector actors and understand judicial pathways available to child / youth victims and witnesses of GBV – the term used must accurately reflect and recognize the legal status of persons as victims of, whose rights have been violated - individually and collectively.¹³

The Jordanian formal justice apparatus is made up of secular and religious systems; hence, both jurisdictions – criminal and personal status – are considered. In this regard, it is reviewed in particular to what extent these two systems interact. Given Tdh’s mandate, the study centers on child and youth

victims and witnesses in the justice chain of the two jurisdictions considered; as GBV disproportionately affects women and girls, the focus is on girls and young women, with specifics for boys and young men highlighted.

The assessment part of the study entails review of the existing needs, barriers and entry-point opportunities to realize gender justice for girls and young women affected by GBV, both at the level of law enforcement and policy makers, as well as at the level of procedures within the administration of justice. Emphasis is placed on the likely experience of a child or young female victim or witness of GBV in Jordan i.e., the process that is followed and the specific procedures that are in place (or lacking) under either jurisdiction.

The study is framed, and the subsequent recommendations are informed, by six components that the Committee on the Elimination of Discrimination Against Women defined as essential for women’s and girls’ access to justice.¹⁴ These include¹⁵:

- **Justiciability:** Unhindered access to justice and empowerment to claim their rights.
- **Availability:** Establishment and continued operation of courts also in hard-to-reach areas.
- **Accessibility:** Justice systems that are secure, affordable and physically accessible (for children), and are adapted and appropriate to their specific needs.
- **Good quality:** Justice systems that adhere to relevant international standards.
- **Provision of remedies:** The ability to receive viable protection and meaningful redress for any harm that they may suffer.
- **Accountability of justice systems:** Monitoring of the functioning of the justice system in accordance with abovementioned five principles.

1.3 Data collection and sampling methods

The study (mapping and assessment) is grounded in an in-depth desk-based research combined with key informant interviews (KIIs) with identified relevant national stakeholders.

The desk-based research focused on determining the regulatory framework at the international, regional

and national levels relevant to GBV, child protection and access to justice. In light of the timeframe for the assessment and the priority to interview national stakeholders, the desk research was used to collect data from relevant UN agencies including UNODC, UNICEF, UN Women, UNDP and UNFPA as well as other institutions and NGOs specialized in the areas of (child) justice and GBV in particular. A bibliography is provided at the end of the study.

In addition, primary data collection was conducted with the aim to gain further information especially

as regards (potential) key actors advancing gender-responsive and child-sensitive justice, available relevant justice procedures, gaps and entry-point opportunities. Semi-structured KIIs were conducted in December 2020 and January 2021, following an interview guide with an introductory script and open-ended questions. Questions are included in the Annex at the end of the study. A total of eight key informant agencies/public institutions were selected in view of foreseen areas of insights they could provide to the study, and a total of ten respondents of these agencies were interviewed:

KEY INFORMANTS AND EXPECTED INSIGHTS

Agency Type	Informant Type(s)	Foreseen to particularly provide insights on:
Judiciary and Law Enforcement	1. Courts Inspector, Civil & Special Courts (Criminal Jurisdiction) 2. Public Prosecutor, Justice Palace (Criminal Jurisdiction) 3. Judge, Sharia Supreme Court (Personal Status Jurisdiction) 4. Director, Family Protection Department (FPD)	<ul style="list-style-type: none">• Specific process and procedures for child / female GBV victims or witnesses• Key actors involved• Dual victim-offender standard• Interaction between jurisdictions• Available facilities• Investigation
Service Provider	5. Director, Arab Women’s Legal Network (AWLN) 6. Head of Aid Department, Arab Renaissance for Democracy & Development (ARDD) ¹⁶ 7. Forensic doctor, Ministry of Health	<ul style="list-style-type: none">• Testimony• Remedies and reparations• Referral pathways• Barriers to access justice, gaps or flaws in procedures, recommendations for action
Policymaker	8. Staff members (3) of the Family Protection and Legal departments, National Council for Family Affairs (NCFA)	<ul style="list-style-type: none">• Public policies on gender justice, GBV against women and girls, child protection• Barriers, gaps, recommendations especially at public policy level

As several of the KII respondents stated that they did not feel comfortable to answer the KII questions freely if their identity were to be revealed, the names of all respondents are withheld; relevant details are kept by Tdh.

¹³ Adapted from the Foreign & Commonwealth Office of the United Kingdom. UK FCO (2017), Box 2 on p.19.
¹⁴ General recommendation on women’s access to justice, Committee on the Elimination of Discrimination Against Women, CEDAW/C/GC/33.
¹⁵Reference to “they” and “their”, in the context of this study, refers to children and youth, rather than women and girls.

¹⁶ ARDD provides various services, including free legal aid, to vulnerable and underrepresented populations in Jordan.

1.4 Limitations and challenges

Several limitations and challenges exist for the study:

Views of child / young victims and witnesses:

To truly understand the experience of victims and witnesses of GBV in the justice process (in both jurisdictions), their views must be sought from them directly. In view of the timeline of the study, the sensitive nature of the topic, and the difficulty to “access” child / young victims and witnesses, it was not realistic to plan for and conduct interviews with children or young people in a responsible manner – certainly not a big enough group to ensure that the interviews would not be mere tokenism. This study, however, may lay the groundworks for a next phase in which relevant procedures and approaches may be further reviewed, with a particular focus on safe and meaningful participation of child victims and child witnesses, if they take the informed decision to participate.

A sample of convenience: The sample size of eight key informants was small, but significative and representative of different governmental and non-governmental key stakeholders. Although there are many more child justice actors it was, given the timeframe, not feasible to solicit the views of these other stakeholders and have them inform the final recommendations. Moreover, the primary overall purpose of the combined mapping and assessment was to identify areas where further research will be useful to support the advancement of the gender justice agenda in Jordan, especially as relates to children. Securing the views of an extended group of key informants will be more effective and appropriate during a following stage. As extensive resources are available from relevant UN agencies, INGOs and other institutions on gender justice, GBV, A2J and child protection, for this study national actors were prioritized.

English translation: The need for English translation for the consultant posed a challenge especially in the primary data collection, and to some extent in the desk review. To counter this, Tdh allocated a staff member with a legal background who was available throughout the assignment to support

with interpretation in interviews and translation of documentation.

2. Justice for Child and Youth Victims and Witnesses in Criminal and Personal Status Jurisdictions

There are multiple existing resources that provide an overview and analysis of the international legal framework in relation to the main topics at hand in this study: Child protection¹⁷; gender-responsive justice for victims of GBV, particularly women and girls¹⁸; and access to justice for children.¹⁹ Rather than adding in this regard, this section highlights the legislative elements that are considered essential for child / youth victims and witnesses of GBV to be able to access justice that is child-sensitive and victim-centered, followed by a comparative review of the legislative situation in Jordan.

2.1 Child and youth victims and witnesses of GBV: International regulatory framework

Relevant key legislative elements – essential rights and envisioned measures to realize those rights – to ensure that child / youth victims and witnesses of GBV are adequately protected and treated fairly throughout the justice process are enshrined in various binding international conventions as well as soft law declarations and guidelines. Of particular note within the context of this study are the following legal instruments:

INTERNATIONAL HARD AND SOFT LAW VIS-À-VIS CHILD / YOUTH VICTIMS AND WITNESSES OF GBV

Legal instrument	Comments
UN Convention on the Rights of the Child (CRC) and its optional protocols ²⁰	<ul style="list-style-type: none">This human rights treaty, which recognizes children as human beings in their own right, sets out the rights of children in all areas of their lives.Specific rights for children in the context of justice processes are included in:<ul style="list-style-type: none">Article 37, which forbids any torture or other cruel, inhuman or degrading treatment or punishment;Article 38, which obliges States to abide with international humanitarian law in armed conflict;Article 39, which stipulates that reintegration with appropriate support is central to any justice process for child victims;Article 40, which determines that children have a right to legal assistance and fair treatment in the justice system that respects all children’s rights.
General Comment No. 24 (2019) on children’s rights in the child justice system ²¹	<ul style="list-style-type: none">Provides a contemporary interpretation of CRC articles and principles specific to children (alleged to be) in conflict with the law.Highlights the relevance of applying a systematic approach to prevention (primary, secondary, tertiary) that is embedded in family and community-based programs, as well as within the justice sector.Places utmost importance on the development of justice programs directed to activate reparation to child victims.Stresses the fact that some GBV child victims may be criminalized within justice systems, including those recruited and exploited by armed forces or armed groups and subjected to sexual violence, child marriage, etc. Urges States to consider in their national regulatory frameworks that these children are primarily victims and not offenders (see below comments on the “dual victim-offender standard”).
UN Convention on the Elimination of Discrimination Against Women (CEDAW) ²²	<ul style="list-style-type: none">CEDAW is a key human rights instrument specific to women and girls, which puts three main obligations on its Member States: The obligation to respect (equality in laws and policies); the obligation to protect (non-discrimination – direct and indirect); and the obligation fulfil (to uphold equality and eliminate gender discrimination in the entire sphere of the social and economic life, including within the justice sector).There are six components that are considered essential for women’s and girls’ access to justice: Justiciability, availability; accessibility; good quality; provision of remedies; and accountability of justice systems in accordance with said five principles.²³

¹⁷ The first version of the Minimum Standards for Child Protection in Humanitarian Action provides an overview of the international legal basis for child protection in emergencies. Alliance CPHA (2012), p.14-15.

¹⁸ See for example UNODC (2019), p.40-42.

¹⁹ See for example Tdh (2020b), section 1.1, p.9-13.

²⁰ The full text of the CRC and the optional protocols is available at <https://www.ohchr.org/EN/HRBodies/CRC/Pages/CRCIndex.aspx>.

²¹ The full text of GC 24/2019 is available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/TBSearch.aspx?DocTypeID=11&Lang=en&TreatyID=5

²² The full text of CEDAW is available at <https://www.ohchr.org/en/hrbodies/cedaw/pages/cedawindex.aspx>.

²³ As discussed in the Introduction.

<p>The Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (the Guidelines) ²⁴</p>	<ul style="list-style-type: none"> • These Guidelines provide a practical framework that can assist States in enhancing the protection of child victims and witnesses in the criminal justice system. • Grounded in the international legal framework – the CRC in particular – the Guidelines specify four cross-cutting principles in regard to dignity, non-discrimination, best interests of the child and meaningful participation, that professionals and others responsible for the well-being of child victims or witnesses of crime must respect. • In addition, the Guidelines highlight the following essential rights to ensure justice for children who are victims or witnesses of crime: <ol style="list-style-type: none"> 1. The right to be treated with dignity and compassion 2. The right to be protected from discrimination 3. The right to be informed 4. The right to meaningful participation 5. The right to effective assistance 6. The right to privacy 7. The right to be protected from hardship during the justice process 8. The right to safety 9. The right to special preventive measures 10. The right to reparation
<p>ECOSOC Resolution 2002/12 ²⁵</p>	<ul style="list-style-type: none"> • Outlines the basic principles on the use of restorative justice programs in criminal matters. • Specifically, provides guidance to states on how to use restorative justice programs, how to operate said programs, and how to continue their development. • Defines the principles and/or conditions that parties engaging in a restorative justice process shall fulfill in advance, particularly those pertaining to victims: Safety, confidentiality, informed consent and need of an equal power balance among the parties.
<p>EU Strategy on victim's rights (2020-2025)²⁶</p>	<ul style="list-style-type: none"> • Although clearly not applicable for or binding on Jordan, it is worth considering this action plan when reviewing the national regulatory framework on dealing with victims and witnesses, especially in regard to remedies and reparations. • The strategy sets out a number of actions for European Commission, its Member States and civil society to ensure that all victims of crime can fully rely on their rights no matter where in the European Union or in what circumstances the crime took place – including for compensation.

²⁴ ECOSOC (2005).
²⁵ Full text of ECOSOC Resolution 2002/12 is available at <https://www.un.org/en/ecosoc/docs/2002/resolution%202002-12.pdf>.
²⁶ COM/2020/258 final. Full text available at <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52020DC0258>.

In addition to the key legislative elements as reflected in the international and regional legal instruments discussed above, there is another concept worth considering in regard to access to justice for child / youth victims and witnesses. This is the concept from the Paris Principles²⁷ that children who are associated with armed forces and armed groups should primarily be considered as victims of offences under international law; not only as perpetrators.²⁸ While the concept to apply such a dual victim-offender standard as foreseen in the Paris Principles was conceived specifically within the context of infringement of international law²⁹, it is worth exploring whether (and if so, to what extent) justice actors in Jordan apply such a standard particularly in situations where criminal law is gendered and females, who are actually GBV victims, are from a legal perspective regarded as offenders. Additionally, it is worth noting that the **dual victim-offender standard** is either sufficiently considered when criminal charges pend over a female alleged offender, hence the consideration of the alleged offender as survivor of crime is not explored within the criminal law, as a shortcoming of contextual considerations of the offence itself, or even the lack of understanding on coercive dynamics behind the offence, where the alleged offender could be regarded as a victim herself.

2.2 Child and youth victims and witnesses of GBV: Jordan’s regulatory framework

The Government of Jordan has ratified the CRC and its optional protocols as well as CEDAW, albeit with several reservations for both.³¹

There are various national laws and policies that regulate the work with child / youth victims and witnesses of GBV. A comprehensive assessment

of gender equality under Jordan’s legal and policy framework, including access to justice for (adolescent and adult) female victims and witnesses of GBV, was done by UNDP.³²

In the present study, the legal and policy framework is reviewed specifically as relates to child victims and witnesses of GBV. Of note for this group (and for children in Jordan in general) is that there is no comprehensive child rights act that encompasses all rights and principles included in the CRC.³³ Hence, any existing provisions related to child protection, including the protection of children who are victims or witnesses of GBV, are presently dispersed across various laws.

The following table provides an overview of the laws and policies that determine how child victims and witnesses are dealt with in justice processes (in both criminal and personal status jurisdictions) in Jordan.

²⁷ The Paris Principles – Principles and Guidelines on Children Associated with Armed Forces or Armed Groups, February 2007. Full text available at <https://www.unicef.org/emergencies/files/ParisPrinciples310107English.pdf>.
²⁸ Paragraph 3.6 of The Paris Principles.
²⁹ Tdh (2020b), p.20 provides more information on this concept of a dual standard.
³⁰ As Warrick describes in her article on criminal law and gender in Jordan, in some elements of criminal law, such as rape and honor crimes, the state seeks social order rather than justice for the victim by redefining the victim as complicit in the crime, as perpetrator herself. Warrick (2005).
³¹ For the CRC, Jordan has expressed reservations in relation to the articles on freedom of religion and adoption. See https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsq_no=IV-11&chapter=4&lang=en#EndDec. For CEDAW, Jordan has expressed reservations in relation to the articles on nationality of children and equal rights in marriage, as parents and personal rights, see UNODC (2009), p.3.
³² UNDP (2018).
³³ Such a law was drafted but is pending approval; KII with NCFA, January 2021.

NATIONAL LAWS AND POLICES VIS-À-VIS CHILD / YOUTH VICTIMS AND WITNESSES OF GBV

Law or policy	Comments
Constitution of Jordan of 1952, as amended through 2016	<ul style="list-style-type: none">• Determines that Jordanians are equal before the law regardless of race, language or religion; gender, however, is not mentioned (art. 6).• Provides children rights to survival, education and development, protection and participation.• Establishes that there are three types of courts: Civil (adjudicating all civil and criminal matters that are not specifically reserved for other courts), religious (adjudicating all personal status matters) and special courts (e.g., the Police Court, which rules over offenses by police officers) (art. 99).
Family Protection Law No. 15 of 2017	<ul style="list-style-type: none">• Repeals Domestic Violence Act No. 6 of 2008 (art. 23).• Regulates how to deal with cases of family violence. Mandates those in certain ‘helping professions’ in the health, education and social sectors to report GBV cases to the Family Protection Department (FPD), which is a police department that focuses exclusively on domestic and sexual violence (art. 4); however, for Personal Status personnel it is at their discretion whether or not to report, even if the case involves children (art. 5).• Places authority on FPD to receive and respond to referrals, complaints, requests for assistance or protection related to domestic violence on the FPD (art. 6).³⁴• Does not define domestic violence crimes.• Stipulates that, where possible, modern technology must be used to protect child victims (art. 12).• Foresees in the possibility for FPD to conduct dispute settlement outside of judicial procedures (diversion of offenders) for domestic violence misdemeanors; however, does not define provide specific guidance.• Does not define the courts that have jurisdiction over cases of domestic violence or issuing protection orders (which courts can do based on art. 16).• Does not foresee in the right to legal assistance of (child or adult) victims and witnesses.• Does not place focus on reintegration of the victim.
Juvenile Law No. 32 of 2014	<ul style="list-style-type: none">• Repeals Juvenile Law No. 24 of 1968, as amended (art. 46).³⁵• Regulates judicial procedures vis-à-vis juveniles, which may be children in conflict with the law and/or children deemed as in need of protection or care as defined in art. 33. Mandates those in certain ‘helping professions’ in the health, education and social sectors to report to the Juvenile Police Department (JPD) (art. 4).• Places authority on the JPD to receive and respond to referrals, complaints, requests for assistance or protection in regard to juveniles.

	<ul style="list-style-type: none">• Although GBV cases involving child victims fall within the jurisdiction of the FPD and should be dealt with in accordance with the Family Protection Law (see above), in those instances where it is not acknowledged that the child is a victim of GBV the case may be dealt with by the JPD. An example is the situation in which a girl has run away from home to escape abuse by her father, who is her legal guardian, and who subsequently has a warrant issued for the girl’s arrest due to her absence from the home.³⁶• To facilitate a more child-sensitive process, the law foresees in the possibility for public prosecutors to videotape interviews with children (including alleged child offenders, child victims and child witnesses) in their office and use this as evidence in court (art. 22(i)).³⁷• Juveniles, including those in need of protection or care, have the right to legal counsel (art. 21-22). This right is set in the context of criminal proceedings where the child is the alleged offender, not a victim.
Penal Code of 1960, as amended through 2017	<ul style="list-style-type: none">• Comprises the statutory enactments dealing with crimes and related punishments.• Terms such as rape, sexual assault, and molestation, although criminalized, are not defined in the law.• Allows parents to discipline their children “as sanctioned by general custom” (art. 62).• Boys and men are afforded less protection than girls in that some harmful sexual acts are criminalized only when committed vis-à-vis females.³⁸
Criminal Procedure Law No. 9 of 1961, as amended through 2017	<ul style="list-style-type: none">• Regulates the modes of apprehending, charging, and trying suspected offenders; the imposition of penalties on convicted offenders; and the methods of challenging the legality of conviction after judgment is entered.• Children below age 15 (or individuals with mental disabilities) are dependent on their guardian to lodge a complaint (art. 3.2). In case the guardian is the perpetrator, the public prosecutor can substitute (art. 3.3); however, the burden is on the complainant to pursue this. This is unreasonable as this would require the complainant to be familiar with the relevant procedures, which children and individual with mental impairments in particular are not likely to be in view of their developmental capacities.³⁹

³⁴ More information on FPD is available on the website of Jordan’s Public Security Directorate: <https://www.psd.gov.jo/index.php/en/2016-08-24-07-07-42/family-protection-department>.

³⁵ A new Juvenile Law was drafted in 2018 but is pending ratification to date. In line with the national regulatory framework, the draft updated law places emphasis on the case management approach, however, specifically for children deemed as in need of protection or care (art. 35).

³⁶ As also reported by Amnesty International. Amnesty International (2019), section 4.

³⁷ See also National SOP, p.53.

³⁸ For example, art. 292-295 Penal Code on rape are limited to females. See also the Committee on the Rights of the Child, “Concluding observations on the combined fourth and fifth periodic reports of Jordan”, para. 31. Full text available at https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CRC%2fC%2fJOR%2fCO%2f4-5&Lang=en.

³⁹ See also WANA (2014), p.19-20.

<p>Temporary Personal Status Law No. 36 of 2010⁴⁰</p>	<ul style="list-style-type: none"> Regulates judicial procedures regarding family matters including marriage, divorce, custody, guardianship, inheritance. Is gendered in that it defines women’s rights from the perspective of “<i>al wilayah</i>” (the obligation on man to support women and children) and “<i>wisayah</i>” (guardianship). Examples include that for her first marriage a(n adult) woman needs her guardian to represent her in her marriage contract, whereas a man can represent himself; a woman with custody over children from a previous marriage loses this if she remarries to someone who is not a close relative to her ex-husband; testimony of one man is equal to that of two women.⁴¹ Any documents related to children below age 18 should be signed by a parent or custodian according to the (art. 210).⁴²
<p>Sharia Courts Procedural Law No. 31 of 1959, as amended through 2016</p>	<ul style="list-style-type: none"> Regulates judicial procedures for personal status law cases including rules about jurisdiction, pleading and practice, evidence, appeal, execution of judgments, representation of counsel, costs, and other matters. The minimum age to file a lawsuit under personal status law is 15 years (art. 43c).⁴³
<p>Crime Prevention Law No. 7 of 1954</p>	<ul style="list-style-type: none"> Sets out who has the authority to place restrictions on a person’s liberty, under what circumstances, what those restrictions can be, and the procedures for imposing them outside of judicial procedures.⁴⁴ Such “administrative detention” can be applied by a Governor (“<i>mutassarif</i>”) or administrator of a sub-district against persons who are “about to commit a crime or assist in its commission,” those who “habitually” steal, shelter thieves, or fence stolen goods, and anyone who, if allowed to remain at liberty, would constitute a “danger to the people.” The law contains presumptions of guilt, it being incumbent upon the defendant to dispel the suspicion of being a “danger to the people,” or “about to commit a crime,” or “habitually” engaging in thievery. Although the law does not specifically authorize it, the law is used to place women in protective custody. Although not in line with the legal framework (the Juvenile Law in particular), in practice Governors also use this law as a basis to place adolescent girls who run away from home in administrative detention. See further Section 3.1.1.
<p>National Framework for Family Protection against Violence, 2016 (NFFPV)</p>	<ul style="list-style-type: none"> Outlines the process of prevention of and protection against family violence at the national level, based on an individual case management approach. Specifies the basis for coordination among all partners from all sectors: social; health; education; police; judicial; and administrative.

⁴⁰ The Personal Status Law was amended in 2010, but never ratified. See FES (2019), p.13-16 regarding these amendments.

⁴¹ WANA (2014), p.14.

⁴² See also definition of “age of legal consent” in the National SOP p.11 (English version).

⁴³ As explained by the Sharia judge consulted for the study. KII with Sharia judge, December 2020.

⁴⁴ An extensive review of the Crime Prevention Law and the implications for the rule of law in Jordan is provided in Human Rights Watch’s report “Guests of the Governor: Administrative Detention undermines the Rule of Law in Jordan”. HRW (2014).

<p>National SOP for Family Violence, GBV, CP, 2018 (National SOP)⁴⁵</p>	<ul style="list-style-type: none"> Ratified by the Government of Jordan in 2019, the National SOP constitute the main piece of policy and procedure as regards prevention of and response to cases of GBV, family violence and child protection. Based in and aligned with international child rights standards and principles. Consolidates the national vision of strengthening the protection system at the national level (as set out in the NFFPV, listed above) and unifies the efforts of national governmental and non-governmental organizations, UN agencies and international organizations working in this field – including the key actors in the justice sector, identified in Section 3. Consists of two interdependent parts: A general framework with policies and protection and prevention programs on the one hand, and detailed procedural manuals on the other (including for dealing with family violence and specific categories of children in need of protection or care). The general framework part provides general guidance on how to work with child victims of GBV, and describes the processes that different actors, including justice sector actors, follow when working with child victims of GBV. Does not include specific guidance vis-à-vis working with child witnesses. The procedural manual for family violence is being finalized.⁴⁶
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Review of these national laws and policies reveals that child victims and witnesses are not consistently considered throughout the Jordanian legal and policy framework (legal dispersion).

Although prevention of and response to GBV is regulated more or less comprehensively by the National SOP, with several (though not necessarily all) specific safeguards to ensure the protection of child victims as well as consideration of their specific needs through an individual case management approach, ultimately the rights of children are, for now, dispersed over different laws. Such dispersal implies a lack of clear legal obligations among the different duty bearers (government) vis-à-vis rightsholders (children) – and thus a lack of judicial protection for child victims facing justice proceedings.

In addition, domestic violence is not clearly defined and thus not clearly recognized in the law; moreover, personal status courts are not mandated to report cases of domestic violence to the FPD. Furthermore, there is no legal recognition of the victim status of

children in situations where domestic violence is perpetrated at the family level primarily against others in the household, for example their mother. No legal provision translates in no tailored judicial protection for children in such situations.

3. Mapping of Key Actors

The key actors that have an actual or potential influence in terms of the facilitation of child-sensitive and gender-responsive justice for child or young victims and witnesses of GBV in Jordan can be divided into three general categories: The justice sector; national institutions mandated to develop policies related to the protection of children including on protection from GBV; and support service providers or other mechanisms (outside of the justice sector) to provide assistance. This section provides a description of the different actors and their respective roles vis-à-vis child or young victims and witnesses of GBV in the justice process. Specific attention is given to the actors of the formal justice sector.

⁴⁵ The official title of this document is “Policies and Guiding Principles for the Prevention of and Response to Violence in Jordan (Gender-Based Violence, Family Violence, and Child Protection), 2018”.

⁴⁶ KII with NCFA, January 2020, who were not able to share a copy at that point.

3.1 Justice sector (criminal and personal status jurisdictions)

The key actors of the formal justice sector that child or youth victims and witnesses of GBV may engage with throughout the justice process (both jurisdictions) can be divided into the following sub-categories: Those that are tasked with enforcing the law; those that adjudicate in legal cases (the judiciary); and those who assist the accused (in the criminal sphere) or the plaintiff or the defendant (in the personal status sphere) in the legal proceedings. Information on these different categories of actors is provided below, followed by a summary table broken down by actor indicating in which jurisdiction(s) they operate. Section 4 goes into more detail of the role of each of the different justice sector actors throughout the justice process.

3.1.1 Law enforcement

The main actors or bodies responsible for law enforcement and maintaining public order and security in Jordan are the public prosecution, the police (Public Security Directorate or PSD), and Governors. In addition, there are several other actors that support law enforcement through providing court-mandated social work type services, namely staff of correctional facilities, protection centers, and behavior monitor offices. For enforcement of family matters under Sharia law specifically, two bodies are of note, namely the Sharia prosecution and the Family Reconciliation & Mediation Offices.

Public prosecution and Sharia prosecution

Violations of the law that constitute crimes as defined in the Jordanian Penal Code should be referred to the public prosecution (unless there is a possibility for settlement, as foreseen in the law) for investigation, decision whether or not to prosecute, and implementation of the penal rules.⁴⁷ As such, public prosecutors may question child / youth victims and witnesses of GBV or, if the child or youth is also an offender, arrest them.

Sharia procedural law also establishes a prosecution

office.⁴⁸ Sharia prosecutors in the Jordanian legal system have a more administrative function and are tasked for example with verifying information in specific matters related to personal status, such as divorce and custody.⁴⁹ The National SOP states in regard to the Sharia prosecution that case coordinators⁵⁰ should coordinate with the Sharia prosecutors in providing case information to the Sharia court, as relevant and appropriate; and that the Sharia prosecution studies the case and all related information and coordinates with the Sharia court to activate procedures and take the required decisions.⁵¹ A Sharia prosecutor may interact with child / youth victims or witnesses of GBV involved in personal status cases before the Sharia court, for example to check paperwork.

In this context, it is important to be mindful of the fact that in the personal status jurisdiction, child victims of GBV will not necessarily be involved in, or put at the center of, the legal proceedings because of the GBV perpetrated against them. For example, in lawsuit revolving around the custody of a child, where the mother divorced the father for reasons of domestic violence, the child is also a victim of said violence. For the legal proceedings, however, the child most probably is regarded as a dependent of the plaintiff and of the defendant, not a party to the lawsuit who seeks to have certain rights enforced or even the reason for the lawsuit.

Police (FPD, Forensic & Laboratories Department) and Governors

Based on Jordan's criminal procedural law, the responsibility to conduct preliminary investigations of crimes including collection of evidence, arresting perpetrators and referring them to court, lies with the judicial police. Cases that involve domestic and/or sexual violence – whether concerning adults or children – fall within the jurisdiction of the Family Protection Department (FPD) of the PSD. The Forensic & Laboratories Department supports the investigation through collecting, examining and analyzing evidence; an example is the physical examination of someone

who was raped.⁵²

As was highlighted in Section 2.2, Governors and sub-district administrators are granted the authority to detain, without judicial intervention, individuals for public security reasons or as a protective measure. An example of a situation in which such 'protective custody' is – forcibly⁵³ – applied for female victims is where the authorities assert not to be able to ensure her safety and wellbeing, such as a female victim whose life is deemed under threat by a family member for reasons related to family honor.⁵⁴ It is not uncommon for FPD, in such situations, to seek support from Governors or sub-district administrators to apply such 'protective' measure.⁵⁵ Despite the fact that administrative detention may be (and often is) enforced in such cases, there are no judicial procedures in place to tackle these situations, and the concerned female is not seen and treated as such as a victim within the justice sphere.

The practice of administrative detention reportedly not only affects adult females, but also girls. An example is when a girl has run away from home and her guardian has a warrant put out for her arrest. FPD will in such a case likely bring the girl to the Governor, who will put her in administrative detention. To be released, the girl would need her guardian. The authorities will not necessarily consider or review if the guardian is the reason for the girl to run away, leading in many cases to situations in which girls are deprived of liberty for extended periods of time, without any chance to access to a fair and responsive justice procedure as victims.⁵⁶

Social workers

In the criminal jurisdiction, the Juvenile Law foresees in so-called behavioral monitors (probation officers) who are tasked to assess the situation and needs of juveniles⁵⁷ i.e., children who are in contact with the and/or deemed as in need of protection or care. Behavioral

monitors are to accompany such children throughout the justice process (also, in theory at least, post-trial) and their assessments serve to inform the judicial process and judgment. Several of the KII respondents mentioned challenges in terms of the capacity and consistency among the behavioral monitors; however, having the probation office in place in the first place was also highlighted as a positive.

In the personal status sphere, there is a Family Reconciliation & Mediation Office (described in more detail in the next section on settlement of disputes out of court), whose staff have a social work type background. The role of this body, however, is limited to the pre-trial stage.⁵⁸

Settlement of disputes out of court

Both the criminal and personal status jurisdictions provide for mechanisms to settle disputes out of court, hence without initiating criminal procedures or litigation.

In the criminal sphere, based on the Family Protection Law of 2017 it is the FPD who facilitates and guides this process.⁵⁹ The law stipulates that the settlement procedure can be applied for only misdemeanors and that the victim and perpetrator must agree to the procedure and participate in the process. The settlement decision needs to be approved by the competent court.

Although not clear from law, the overall objective of settlement will be to promote the reparation of the damage inflicted upon the victim by the perpetrator. It is of note in this regard that FPD started implementing the settlement procedure in late 2020; they see the settlement procedure as in a "pilot" phase, as no specific practical procedural guidelines are available, and implementation of this mechanism is new to the department.⁶⁰

⁴⁷ The organization and functions of the public prosecution are set out in Jordan's Criminal Procedure Law No. 9 of 1961, as amended.

⁴⁸ There is no similar body within the Christian law context. KII with Sharia judge, December 2020.

⁴⁹ More administrative compared to public prosecutors in the criminal jurisdiction; KII with Sharia Judge, December 2020.

⁵⁰ In this context, "case coordinators" would be those employees of FPD, MoSD or social support service providers that engage in providing management support to child victims of GBV.

⁵¹ National SOP, p.53 and p. 64 (English version).

⁵² An overview of the different departments of the PSD and their respective functions is available at the PSD website, <https://www.psd.gov.jo/index.php/en>.

⁵³ Females who suffer abuse are often referred to shelters by the FPD, which effectively subject them to incarceration since they are not allowed to leave the shelters. Baker et al. (2015), p.24-26.

⁵⁴ As reported, for example, by Musawah (2017), p. 24; UNDP (2018), p.16.

⁵⁵ KII with FPD, January 2021. See also HRW (2014) and Amnesty International (2019).

⁵⁶ Amnesty International (2019), Section 6.6, as also confirmed in the KII with AWLN, January 2021. Human Rights Watch explains.

⁵⁷ Art. 10-11, Juvenile Law No. 32 of 2014.

⁵⁸ KII with Sharia judge, December 2020.

⁵⁹ Art. 7-11, Family Protection Law No. 15 of 2017.

While it can be pivotal for victims and their perpetrators to have – especially in intra-familial settings, where victim and perpetrator will likely continue to see each other – access to this process and restore their relationships and resilience, first and foremost it needs to be ensured that no further harm is caused especially to the victim. The public prosecutor interviewed for this study voiced, based on experience, significant concerns in relation to this settlement process. The respondent expressed doubt as to whether the needs and safety of the victim can in the current context be warranted, including specific and mandatory safeguards where child victims of GBV are concerned (e.g., as regards the need to: Obtain ‘genuine’ informed consent; apply the best interests of the child principle; ensure that power imbalances do not affect the participation of the child victim in the settlement process because of fear of reprisal, stigmatization, pressures or intimidation, etc.). Indeed, given the significant amount of preparation and support that is required to support facilitate a restorative practice that is safe and helpful to all involved (thus, in line with the international framework as outlined in Section 2.2) and given inequalities based on gender in families that in the Jordanian society typically negatively affect women and girls, as well as boys, and their agency, the current practice may not meet relevant standards and may actually cause more harm.⁶¹

In the personal status sphere, there is within each Sharia court a Family Reconciliation & Mediation Office (this is specific to Sharia courts; such a body does not exist within Christian courts⁶²). The staff within these offices, who typically have a background in social work or psycho-social support (and not Sharia law), conduct family counselling, awareness raising on marital rights and duties, and support to amicably resolve family disputes. A family reconciliation or mediation session usually is the first step after a lawsuit has been filed in the Sharia court. Such sessions are mandatory. They are often perceived as not particularly helpful but rather prolonging the process – and potentially may

add to anxiety and harm in those cases where domestic violence is the reason for the lawsuit.⁶³ Children who may be involved in a case before a personal status court (for example, children of a couple who file for divorce) are essentially dealt with as part of the family and their views typically are not sought.⁶⁴

3.1.2 Judiciary

The judiciary plays a pivotal role in the response to children and youth in contact with the law, including those affected by GBV. It is uniquely placed to ensure that relevant laws are interpreted through the lens of international standards and norms on child-friendly and gender-responsive justice; are effectively enforced; protect children from violence and the recurrence thereof; hold perpetrators to account; and provide effective reparations for victims. In addition, the different justice institutions collectively have the potential to ensure that children and youth are not subjected to secondary victimization by the justice system.⁶⁵

In Jordan, the formal justice system derives its structure and power from both secular and religious laws and policies issued by the government. Principally, a case of GBV that constitutes an offense under the Penal Code of Jordan⁶⁶ falls within the jurisdiction of the civil court system (criminal jurisdiction), whereas all personal status matters are exclusively dealt with by applying religious legal provisions.⁶⁷ ⁶⁸ Given the nature of personal status matters – marriage, divorce, custody, alimony – boundaries between the two jurisdictions are often blurred particularly where it concerns domestic violence. In some instances, judges do not agree on the jurisdiction; section 4.1 looks into this dynamic in more detail.

Judiciary personnel from both jurisdictions consulted for this study confirmed that overall, when adjudicating in a case that involves child / youth victims of GBV, their work is framed by the key overarching child rights principles. There are, however, existing procedures

that hamper the full respect for these concepts in practice, and also attitudes of respective colleagues vary significantly.⁶⁹

In the criminal sphere, as highlighted in Section 2.2 it is of note that children below age 15 need their guardian to lodge a complaint. While there is a way around it, it places the burden to figure out the process on the child, which is especially unfair when their guardian is the perpetrator.

In the personal status sphere, children below 15 years of age are not heard. While personal status procedural law does not expressly allow or prohibit questioning children younger than 15, in practice it is considered as not appropriate, and it may be (successfully) used by the loser to support their appeal.⁷⁰

In addition to judges', courts have various administrative staff members to support the day-to-day operations, such as clerks. While some sources cite that people filling these roles can be helpful in guiding those involved in legal procedures through the process,⁷¹ the justice sector personnel interviewed for this study did not corroborate this; in their respective views, the role of court administrative staff tends to be limited to contacting child / youth victims and witnesses to inform them of hearing sessions.⁷²

Finally, there are several other actors and institutions of the judiciary that are of note. These are for the criminal jurisdiction the courts inspectors of the Directorate of Inspection, and for the personal status jurisdiction the Inspection Department. These actors or bodies do not deal directly with children, but given their respective functions they can support the administration of justice in a manner that is (more) child-sensitive and victim-

centered. Whether inspection will indeed advance such approaches, however, will in turn depend on the knowledge and skills of the inspectors.

Inspectors of the Directorate of Inspection checks and oversees the quality of the (civil) judges' work, and thus facilitate the accountability of the judiciary. This is done through routine monitoring; in addition, individual members of the public can submit complaints for inspectors to investigate. Such complaints may be related to how an individual was (mis)treated or procedural mistakes. Over 2020, around 130 complaints were received, indicating that this measure is not used very much. Most of the complaints are issued by lawyers, who are more aware of procedures like these. To the inspector's knowledge, no complaints from children were received so far, which is thought to be due to lack of awareness of the availability of the procedure or how to initiate it.⁷³ It also suggests that the procedures are not specifically adapted for child and youth, especially not those who suffered GBV.

The Inspection Department check and oversee the quality of the Sharia judges' work. There however is no mechanism for citizens to submit complaints.⁷⁴

3.1.3 Legal support actors

Child / youth victims of GBV in particular need support from legal professionals to guide them through the justice process, which is complex and likely completely unfamiliar. Given the sensitive nature of GBV cases, such assistance should be provided by specialized lawyers who understand what the specific needs and vulnerabilities of child victims of GBV may be, so that they can support in a sensitive manner and help the child or young person access additional services needed to ensure their safety and

⁶⁰ KII with FPD, January 2021. The absence of detailed, practical guidance was highlighted by AWLN, in a study on the status of services offered under the Family Protection Law No. 15 of 2017, as a significant challenge for proper implementation of the law (source on file).

⁶¹ As extensively explored and explained in the webinar "Restorative justice responses to sexual violence - How to enable safe and sensitive practice" available at <https://vimeo.com/438914037>. See also UN Women (2011), p.10 on the dangers for survivors in relation to restorative justice.

⁶² KII with Sharia judge, December 2020.

⁶³ KII with Sharia judge, December 2020, and OXFAM (2018), p. 24-25.

⁶⁴ KII with Sharia judge, December 2020.

⁶⁵ Adapted from UNODC (2019), p.1.

⁶⁶ Law No. 16 of 1960, as amended. Marital rape, for example, is not criminalized.

⁶⁷ As regulated in the Temporary Personal Status Law No. 36 of 2010, which is based mainly on Sharia. Christians may apply their own laws for marriage and divorce. See further UNDP (2018), p.17.

⁶⁸ Art. 99 of the Jordanian Constitution vests power in three categories of courts: civil, religious and special. Civil courts preside over all civil and criminal cases, unless reserved for other jurisdictions. See WANA (2014), p.5-6 for an overview of the Judicial authority in Jordan.

⁶⁹ KIIs with courts inspector and Sharia judge, December 2020.

⁷⁰ KII with Sharia judge, December 2020.

⁷¹ OXFAM (2018), p.23.

⁷² KIIs with Sharia Judge, December 2020; courts inspector, January 2021.

⁷³ KII with Courts Inspector, January 2021. More information on courts inspection is provided on the website of the High Judicial Council, <http://www.jc.jo/en>.

⁷⁴ KII with Sharia judge, December 2020.

wellbeing. Depending on the jurisdiction in which their case is adjudicated, such support may be provided by a defense attorney (criminal jurisdiction), or Sharia or civil attorney (personal status jurisdiction). Sharia lawyers must have studied Sharia law but not civil law, while for defense and civil lawyers it is required to have studied civil law. There is no Christian equivalent of Sharia lawyers; those representing Christians in personal status cases are civil lawyers.⁷⁵ While there is at least one lawyer who specializes in supporting child offenders (who may, at the same time, be victims of GBV), no lawyers specialized in dealing with child victims of GBV were identified.⁷⁶ If legal aid is not specialized, child victims’ rights cannot be duly realized.

These different types of lawyers are organized in specific groups, namely the Jordan Bar Association for civil and defense attorneys and the Sharia Lawyer Organization for Sharia Lawyers. For both groups, it is mandatory to register with the respective organization.⁷⁷ Free counsel is appointed by the state in criminal cases meeting certain criteria. Personal status courts do not have mechanisms of support to vulnerable populations.⁷⁸ The Jordan Bar Association has a procedure to allocate pro bono support, but reportedly this practice is not consistently followed, especially for personal status cases.⁷⁹

There are several NGOs that focus on providing legal aid support to underprivileged communities, such as the Justice Centre for Legal Aid (JCLA) and ARDD. In the context of humanitarian response, the Norwegian Refugee Council has its ICLA (Information, Counselling and Legal Assistance) program. None of these actors specialize in working with children / child victims or witnesses of GBV, but rather their focus is on individuals (not children in particular) in conflict with the law, alleged offenders.

⁷⁵ Ibid.
⁷⁶ Legal Specialist of Tdh Jordan office.
⁷⁷ Ibid.
⁷⁸ OXFAM (2018), p.23.
⁷⁹ Ibid.

FORMAL JUSTICE SECTOR

OPERATES WITHIN...

Category	Actor / Group of Actors	Criminal Jurisdiction	Person. Status Jurisdiction	Role vis-à-vis child / youth victim or witness of GBV
Law Enforcement	Public Prosecution	x		Investigation (interviewing and registering testimony); arrest (of a victim-offender); instigation of legal proceedings (public lawsuit); questioning during trial hearings
	Sharia Prosecution	(at their discretion to refer GBV cases to FPD or not)	x	Administrative role - checking of paperwork - in specific cases (only under Sharia law; no Christian Public Prosecution)
	Family Protection Department (FPD) (Public Security Directorate)	x	(they refer, at times, to P.S. court)	Investigation (interviewing for evidence collection); protection; arrest; dispute settlement with offender for cases of domestic and sexual violence
	Forensic & Laboratories Department (Public Security Directorate)	x		Investigation of crimes (evidence collection through physical examination of victim)
	Prison staff (Public Security Directorate)	x		Detention of adult offenders who are also victims (court-mandated, pre-trial or convicted OR upon instruction of Governor)
	Training & rehabilitation centers staff (Ministry of Social Development)	x		Provide custodial services for rehabilitation, reintegration to child offenders who are also victims (court-mandated, pre-trial and convicted)
	Behavioral Monitors (Ministry of Social Development)	x		Provide services for rehabilitation, reintegration to child victims of GBV who are in need of protection or care OR also offenders (court-mandated)
	Protection centers staff (Ministry of Social Development)	x		Provide custodial to victims deemed in need of protection (court-mandated for children; upon instruction of Governor for adults)
	Family Reconciliation & Mediation Offices		x	Settlement of family disputes without litigation; family counselling; awareness raising on marital rights / duties. Sessions are mandatory
	Governors ("mutassarif")	(they refer, at times, to FPD)		Can, without charge or trial, apply administrative detention as "protective measure" or for immoral behavior. FPD may refer cases with wider security concerns to Governor

Judiciary	Civil / regular judges	x		Conduct criminal trial hearings victim(s) and witness (es), sentencing of offender who is also a victim
	Religious judges	(at their discretion to refer GBV cases to FPD or not)	x	Conduct case hearing in Personal Status matters (marriage, divorce, custody, guardianship, inheritance), issue decision, enforcement thereof
	Court administrative staff	x	x	Support the operation of their court and as such may deal with victims / witnesses directly
	Directorate of Inspection <i>High Judicial Council</i>	x		Inspection of judiciary for accountability of justice system; do not deal directly with individuals in justice process
	Inspection Department <i>Supreme Sharia Department</i>		x	Inspection of judiciary for accountability of justice system; do not deal directly with individuals in justice process
Legal Support	Defense Attorneys	x		Support the victim who is also an offender in a criminal case before a civil (criminal) court
	Civil Attorneys	x	x	Support the victim / witness in a civil lawsuit before a civil court
	Sharia Attorneys		x	Support the victim / witness in a personal status lawsuit before a Sharia court
	Jordan Bar Association	x		Allocation of pro-bono legal aid to victims who are also offenders in criminal cases
	Legal Aid Organizations	x	x	Provide legal counselling and representation to victims (or offenders who are also victims) in legal proceedings (criminal and personal status)

3.2 Policymakers

There are three national institutions with a mandate that includes the protection of women and children;⁸⁰ of these, the National Council for Family Affairs (NCFA) focuses on the protection of girls and boys, including from GBV. NCFA has led on a number of important policies and regulations in this regard, the most important one being the National SOP for GBV, family violence and child protection.

In addition, the Ministry of Justice (MoJ), Ministry of Health (MoH), Ministry of Education (MoE) and Ministry of Social Development (MoSD) each have a special department on domestic violence.⁸¹ Of these, MoSD focuses specifically on children.

3.3 Support services or mechanisms for assistance (outside of the justice sector)

A few examples of support services or mechanisms outside of the justice sector that can be instrumental in advancing child-sensitive and victim-centered justice include civil society organizations; media; and youth.

Civil society organizations such as NGOs or CBOs may offer support to child / youth victims and witnesses in a range of different areas complementary to the justice sector, such as social support type services, health services, educational services, etc. Ideally, an inter-disciplinary approach is applied, where the situation of the child victim is carefully and comprehensively assessed, and services required are well coordinated – both with service providers as well as the child her- or himself. This implies the need of having specialized justice procedures for child victims and, within them, effective referrals to other services providers, guaranteeing its follow-up.

The media can play a key role in uncovering and informing the general public on harmful practices and

approaches in relation to child / youth victims and witnesses of GBV. An example in relation to so-called honor crimes in Jordan is journalist and activist Rana Husseini, who since 1993 has tracked honor crimes by following police cases and court proceedings and reported on them through media outlets and other publications. According to some, the role of the media in terms of covering harmful practices could be stronger and more prominent than it is.⁸²

The peers of child / youth victims and witnesses can also provide a strong community safety and support network. In this regard, the key informant representing AWLN in particular stressed that is important to raise awareness among youth about what constitutes violence against women and girls, and why, as many young people are not aware of the law and that certain behavior is criminalized. Through implementation of several initiatives targeting youth in for example universities youth were able on one end of the spectrum to acknowledge harmful (criminal) behavior, and on the other end to hold offenders to account.⁸³

4 Judicial Pathways and Key Areas for Consideration

This section provides an overview of the different judicial pathways for child and youth victims and witnesses under the criminal and personal status jurisdictions. The study reviews to what extent the key legislative elements for child-sensitive, victim-centered justice as outlined in Section 2 above are respected throughout the justice process phases (pre-trial, trial and execution). First, an outline on the interaction of the two jurisdictions is provided, followed by an elaboration for each jurisdiction broken down by the different procedures⁸⁴ that would be followed.

4.1 Interaction between the criminal and personal status jurisdictions

As was noted before, when adjudicating on cases of violence in the familial sphere, the boundaries between jurisdictions are often blurred. Of importance in regard of the interaction between the two jurisdictions is the fact that personal status judges are not mandated to report cases of domestic violence; rather, it is at their discretion.⁸⁵

Unsurprisingly, it is not uncommon for there to be disagreement among civil and personal status judges on which court has jurisdiction. The following example was given during the KIIs to illustrate how this may happen:

*The case concerned a two-year-old girl, whose parents were divorced. Under personal status law, custody had been granted to the mother. The child's health deteriorated significantly, which the father attributed to maltreatment by the mother. He filed a complaint with the FPD, who based on examination by a forensic doctor determined that the child had brain damage due to excessive shaking, likely perpetrated by the mother. The case was referred to the juvenile court, who ruled that the child was in need of protection and care and ordered for the child to be taken away from the mother and placed into care. The mother subsequently filed a lawsuit with a Sharia (personal status) court to contest the verdict of the juvenile judge. The Sharia judge ruled that the child should be placed into the care of the maternal grandmother and sent the verdict to the juvenile judge.*⁸⁶

To help overcome impasses and ensure that the best interests of the child can be met in cases like these, FPD has started a practice where they call for a conference with judges from the two jurisdictions. However, attendance is not mandatory, and the practice is by some of the judiciary seen as meddling.⁸⁷ Enhancing the coordination between the jurisdictions is a priority for various stakeholders interviewed.⁸⁸

4.2 Child and youth victims and witnesses in the criminal jurisdiction

In general, the regulatory framework as applicable to the different actors dealing with (in particular) victims of GBV (both children and adults), including the criminal justice sector, is aligned with the different rights and principles as outlined in the relevant international legal instruments and soft law standards, which Jordan has ratified or acceded to. This is evident from the main piece of policy and procedure on prevention of and response to GBV in Jordan: The National SOP.⁸⁹

On the rights **to be treated with dignity and compassion** and **to be protected from hardship** during the justice process: Although the regulatory framework requires specific facilities for children and to limit potentially re-traumatizing actions such as questioning, and although there are concrete efforts in this regard (see below), there is a general lack of capacity (infrastructure, skills) to meet the standards.⁹⁰ Victims report to be treated as perpetrators.⁹¹

In cases of sexual violence and/or where a female has run away from home, a physical examination may be required for evidence collection. In some cases, the guardian may request to determine the female's virginity.⁹² There are reports of police forcing women to collaborate with these examinations, although FPD denies this.⁹³ The majority of forensic doctors

⁸⁰ UNDP (2018), p.11.

⁸¹ Ibid.

⁸² This came up during a KII in relation to an example of a case in which the interviewee had provided legal support to the non-Jordanian parents of a child who was born in Jordan. The parents were not able to produce the required marriage documentation, so (as per Jordanian law) the state took the child and placed it in an institution. Given the specific situation of the parents, it took them over five years to secure the required documentation and get their child back. The key informant felt that there could have been more and more consistent media coverage. KII with AWLN, January 2021.

⁸³ KII with AWLN, January 2021.

⁸⁴ It should be noted that the study did not aim to provide an exhaustive list of legal procedures, but rather to highlight the main interactions of child victims with the different actors of the justice sector.

⁸⁵ Art. 5 of the Family Protection Law No. 15 of 2017.

⁸⁶ KII with courts inspector, January 2021.

⁸⁷ Ibid.

⁸⁸ KIIs with courts inspector and NCFA, January 2021.

⁸⁹ Ibid.

⁹⁰ See Section 2.2 for information on this policy document.

⁹¹ As confirmed by practically all key informants. For example, the public prosecutor mentioned that there should be a child friendly interview room for the prosecution, but that to date this is only available in the courts.

⁹² KII with AWLN, January 2021. See also under the right to effective assistance.

⁹³ Amnesty International (2019), Section 4.4.

⁹⁴ Ibid.

are male, which poses an additional barrier for female victims of GBV to come forward, and/or makes physical examinations – virginity testing or other – more (re-) traumatizing.⁹⁴

The regulatory framework allows for public prosecutors to videotape the hearing of child victims and witnesses; this measure was put in place so that the child would only have to be heard once. However, in practice the measure was not applied correctly, leading to inadmissible evidence.⁹⁵

With support from NCFA, the judiciary is piloting a project in North Amman to conduct online hearings of child victims and witnesses in criminal proceedings, using Closed Circuit Television (CCTV) technology. This approach is applied with the aim to facilitate child victims and witnesses in that they will not have to go to court, reducing the risk that they will meet the(ir) offender and limiting the number of times they have to be heard.⁹⁶ Nevertheless, regardless of whether criminal procedures are conducted in person or through CCTV, to ensure that child victims are interacted with in a manner that is consistent with relevant guiding principles and procedures, proper preparation by specialized professionals who are trained in dealing with child victims and witnesses is required. Hence, whether needs around safety and wellbeing of child victims and witnesses are indeed (better) met will ultimately depend on the skills and abilities of justice personnel involved.

Entrenched gender bias and stereotyping (in some instances unconscious) at the judiciary level do play a role in the investigation techniques and methods employed. Special investigative and interview techniques must be developed and carefully supervised and should include a gender analysis to inform their design and application in order to assess their impact and reliance.

Observing gender-sensitive witness protection frameworks within justice proceedings has the added benefit of encouraging witnesses to come forward and to provide information and cooperation throughout

the processes of investigation and prosecution. Operationalizing the fundamental principle of “do no harm” means recognizing that many victims and witnesses GBV cases are testifying about events that had a significantly negative and often traumatic impact on their lives, their families and their communities. A girl or young female witness is likely to experience greater stress when the roles of girls and women are restricted in the public sphere, or in environments in which females are disadvantaged in terms of education and legal and economic status. In addition, it must be noted that testifying may expose them or their families and loved ones to threats or actual violence, so extra protections, both physical and mental, should be put in place before any testimony is taken. It is essential to build expertise on gender-sensitive interviewing practices at the judiciary level, within both jurisdictions, criminal and personal status.

On the rights **to be informed and to meaningful participation**: Victims / witnesses below age 15 or with mental impairments are discriminated against in that they are dependent on their guardian to lodge a complaint; in case the guardian is the perpetrator, the public prosecutor can substitute, however, the burden is on the victim / witness to pursue this. This is unreasonable as they are the victim / witness and as they are likely are not familiar with the relevant procedures especially in view of their developmental capacities.⁹⁷

Jordanian criminal law is gendered; for example, marital rape is not recognized, and mitigation of penalties is possible in crimes in the family sphere.⁹⁸ On the other hand, in some instances sexual violence is criminalized only when perpetrated against females, such as rape. Presumably, such an offense will be punishable under other provisions, however, men and boys reportedly do not come forward after having been exposed to sexual violence.⁹⁹

On the rights **to be informed and to meaningful participation**. Local practices are not focused on ensuring meaningful participation of child victims and witnesses. Child victims and witnesses (same as adult

victims and witnesses¹⁰⁰) are not kept abreast of the legal proceedings or their outcome.¹⁰¹

On the right to **effective assistance**: While the Juvenile Law of 2014 does stipulate that children facing criminal charges have the right to legal representation¹⁰², this law nor the Family Protection Law of 2017 foresee in free legal aid for child victims of GBV (or other forms of violence)¹⁰³ As was highlighted in Section 3.1.3 above, legal aid mechanisms for (child or adult) victims and witnesses, both in the criminal and in the personal status spheres appear to be even less available than for (alleged) offenders in the criminal jurisdiction.

A frequently cited challenge hampering child-sensitive and victim-centered justice is the lack of training and practical guidance among the different actors of the justice sector as well as other stakeholders, many of whom hold strong prejudices vis-a-vis GBV victims.¹⁰⁴ This challenge is exacerbated by reportedly weak referral mechanisms. Strong referral mechanisms.¹⁰⁵ are requisite for a comprehensive (inter-disciplinary) approach that ensures appropriate and tailored support to child victims and witnesses.

Women are underrepresented in the judiciary, with female judges constituting 22% of the total. Nevertheless, it should be noted that this is more than triple the percentage of female judges compared to 2006.¹⁰⁶

During the interviews with the justice personnel of the criminal jurisdiction, various respondents stressed that

capacity building as well as development of practical guidance on specific areas such as age-appropriate and gender-responsive interaction with child victims and witnesses is both necessary and desired.¹⁰⁷

On the right to **special preventive measures**: There is no (adult or child) victim/witness protection program in Jordan.¹⁰⁸ The National SOP do not provide guidance on how to support child witnesses of crime (who may, even if not necessarily recognized as such within the national legal framework, also be victims). If a child or youth victim or witness is in need of protection, they can be referred to a protection center.¹⁰⁹ Placement in a protection center is not voluntary and is, in practice, imposed by Governors through administrative detention, for example for female who had sex outside of marriage and who is at risk of being killed by her relatives to save the family's honor.¹¹⁰ To place a child victim or witness of GBV in a protection center, a court order from a Juvenile judge is required; in practice, however, FPD may go through the Governor (administrative detention) for example in cases where a girl ran away from home to escape violence.¹¹¹

On the right to **reparation**: There is no state fund or program to provide compensation to victims. A victim who wants to claim damages has to file a separate civil lawsuit at their own cost, as the Jordanian law does not foresee in free legal counsel or representation in legal proceedings for victims.

On the application of the **dual victim-offender standard**: This is not common practice even in those cases where the reason for “offending” by a young woman or girl is violence perpetrated against her.¹¹²

⁹⁴ KII with forensic doctor, December 2020.

⁹⁵ KIIs with public prosecutor, December 2020; courts inspector and NCFA, January 2021.

⁹⁶ KIIs with courts inspector and NCFA, January 2021.

⁹⁷ Art. 3 of Criminal Procedure Law, as amended. See also WANA (2014), p.19.

⁹⁸ See UNDP report on gender justice and the law in Jordan for a full overview. UNDP (2018).

⁹⁹ KIIs with courts inspector, AWLN, FPD, January 2021.

¹⁰⁰ As confirmed by justice sector personnel interviewed for this study. KIIs with Sharia judge, public prosecutor and courts inspector, ^{97 97} December 2020 and January 2021.

¹⁰¹ Ibid.

¹⁰² Which right is interpreted in a restricted manner, leading to (alleged) child offenders not having access to legal aid during the pre-trial stage, and to children accused of misdemeanors whose families cannot afford a lawyer and who are not able to access a legal aid NGO not having access to legal aid at all. NCFA (2018), p.66; KII with FPD, January 2021.

¹⁰³ Art. 21-22 Juvenile Law. See also Section 2.2 above.

¹⁰⁴ KIIs with ARDD, AWLN, courts inspector, public prosecutor, religious judge, December-January 2021.

¹⁰⁵ KIIs with forensic doctor and FPD, December 2020 and January 2021.

¹⁰⁶ See <https://www.usaid.gov/jordan/gender-equality-womens-empowerment#:~:text=In%202006%2C%20only%206%20percent%20of%20judges%20in%20Jordan%20were%20women.&text=Since%20then%2C%20female%20representation%20has,22%20percent%20of%20Jordan's%20judges>.

¹⁰⁷ KIIs with AWLN, courts inspector, NCFA, public prosecutor; December 2020 and January 2021.

¹⁰⁸ KII with courts inspector, January 2021.

¹⁰⁹ For women, there are the shelters of Dar Amneh and Dar Al-Wifaq; for girls Al-Khanza juvenile facility. On Dar Amneh and Al-Khanza,

¹¹⁰ Musaweh (2017), p.24.

¹¹¹ KII with AWLN, January 2021.

¹¹² KIIs with public prosecutor, December 2020; and courts inspector, January 2021.

CRIMINAL PROCEEDINGS IN JORDAN: CHILD-SENSITIVE AND VICTIM-CENTERED APPROACHES AND PROCEDURES

Procedural phase	Criminal procedure	Main actor(s)	Child-sensitive and/or victim-centered measures or lack thereof
Pre-Trial	Arrest	Public prosecutor	<ul style="list-style-type: none">Child / youth victims who are also considered offenders by law enforcement officers may be arrested.There are no separate prosecution offices for children, but there are specialized child prosecutors (although not all work exclusively with children).¹¹³There is a separate police department for dealing with cases of domestic and sexual violence, with separate offices: FPD. Of the FPD officers, 48% are female.¹¹⁴ All FPD officers are specialized in working with victims and perpetrators of domestic and sexual violence, but not with child offenders (who are, at the same time, victims) of GBV.¹¹⁵FPD has, to varying extents across the different governorates, special facilities for children such as child-friendly interview rooms.Although required by law, there are no separate facilities available for prosecutors to question children.
		Police (FPD)	
	Pre-trial detention	Prison staff	<ul style="list-style-type: none">Child / youth victims of GBV who are also (or primarily) considered offenders may be detained. Example: when a female runs away from home, her guardian can, due to her absence, have a warrant issued for her arrest. Upon her arrest, the female will be detained until bailed out by her guardian. Police generally do not consider if or investigate whether the female is the victim.¹¹⁶Males and females (adults and children) are segregated.There are separate detention facilities for children: Training & Rehabilitation Centers or TRCs). There are 6 TRCs in Jordan, all in the central and north part of the country, meaning that families of detained children from the south have difficult access to visit their children.For detention or placement in a protection center of children, a court order from a juvenile judge is required; however, Governors reportedly apply administrative detention (without judicial intervention) to adolescent girls.¹¹⁷For adults, the Governor can, based on the Crime Prevention Law, apply administrative detention for "public security" - this is outside of the criminal procedures, without charge or trial. There is no mechanism for detainees to appeal this decision.¹¹⁸
		Protection center (shelter) staff	
	Investigation ¹¹⁹	Police (FPD)	<ul style="list-style-type: none">A GBV victim who escaped home and is arrested at her guardian's request may be subjected to physical examinations to determine their virginity. The majority of forensic doctors are male.Possibility to videotape hearing with child victim or witness.North Amman: Possibility to have hearing done online.
		Public prosecutor	
	Evidence collection	Police (FPD, Forensics & Lab. Dept.)	

¹¹³ NCFA (2018), p.44.
¹¹⁴ KII with FPD, January 2021.
¹¹⁵ NCFA (2018), p.43-44.
¹¹⁶ Amnesty International (2019), p.X and KII with AWLN, January 2021.
¹¹⁷ KII with AWLN, January 2021.
¹¹⁸ As described in Human Rights Watch's report "Guests of the Governor: Administrative Detention Undermines the Rule of Law in Jordan" and Amnesty International's report "Imprisoned Women, Stolen Children: Policing Sex, Marriage and Pregnancy in Jordan." HRW (2014), Amnesty International (2019).
¹¹⁹ See also under the criminal procedure of Arrest, above, on staffing.

	Settlement outside of court (diversion of offender)	Police (FPD)	<ul style="list-style-type: none"> This procedure was set out in the 2017 Family Protection Law (in lieu of the prior Family Reconciliation Offices) is available for misdemeanors. The parties must agree to it and participate in the process; the settlement decision must be approved by the competent court. FPD are currently piloting the settlement procedure; no practical guidelines are available to the staff. The power dynamics of the settlements might hinder the informed consent or assent of a party (mostly the victim); the best interest of the child might be overcome by the higher interest of family unity and public order. Behavior monitors do not attend settlement procedures on a regular basis. Settlement procedures are not systematically activated by a recommendation based on the best interests assessment (BIA).
Trial	Hearings	Civil / regular judge	<ul style="list-style-type: none"> For children victims / witnesses in need of protection or care or who are also offenders, there are separate juvenile courts in 3 governorates, and specialized juvenile judges.¹²⁰ Civil (criminal) judges dealing with cases involving child / young victims or witnesses. Pilot project to conduct online hearing sessions of victims and witnesses.
		Behavioral Monitor	
		Public Prosecution	
		Defense attorney	
		Court administrative. staff	
	Sentencing	Civil / regular judge	<ul style="list-style-type: none"> Victims and witnesses are not as a standard informed of the outcome of the lawsuit. There is no government framework for remedies and reparations, nor does a decision to provide reparation happen in the criminal justice process. For any sort of compensation, the victim must file a separate civil lawsuit, which requires additional time and resources.
Execution	Appeal; complaints	Defense attorney for convict	<ul style="list-style-type: none"> For victim who is also a convicted offender. The convicted child / youth has the possibility to submit a complaint on ill treatment by the judiciary or procedural failings. These procedures are not known among the general public, and none of the complaints appear to be submitted by or on behalf of children.
		Public prosecutor	
	Rehabilitation (custodial)	Prison staff	<ul style="list-style-type: none"> There is no framework for remedies or reparations. Inter-disciplinarity - lack of service providers for required support. There are no specific judicial procedures or practice regarding the reintegration of child victims of GBV. Although the National SOP do provide regulations and guidance for response to cases of GBV, inter-disciplinarity of the services as presented is sectoral and reintegration of GBV victims, including children, is not comprehensively covered.
		Training & Rehab. Center staff	
	Rehabilitation (non-cust.)	Behavioral Monitors	
	Reintegration	Behavioral Monitors	

¹²⁰ NCFA (2018), pp.44-45.

4.3 Child and youth victims and witnesses in the personal status jurisdiction

The National SOP¹²¹ apply to any institution or person working in the prevention of or response to family violence, GBV and child protection related issues. This also applies to the justice sector personnel of the personal status jurisdiction. However, as was discussed in Section 2.2, the Family Protection Law does not mandate personal status judges (or Sharia prosecutors) to report cases of family violence to the FPD. Feedback from key informants indicates that it rarely, if ever, happens that a personal status judge refers a case to FPD for follow up; similarly, as discussed in Section 4.1, in cases of family violence criminalized by the Penal Code it is not uncommon for there to be disagreement among personal status and criminal judges on which jurisdiction prevails.

Therefore, although in theory governed by the guiding principles as outlined in the National SOP, in practice justice sector personnel of the personal status jurisdiction will likely not use this policy document as a reference for organizing and institutionalizing their work around cases that involve family violence (or GBV or child protection related issues) or ensure that their internal procedures are in line with the policies, and roles as set out in the SOP. Moreover, as was highlighted in Section 3.1.1, child victims and witnesses of GBV who are somehow involved in personal status cases will typically not be considered or treated as victims, but rather as appendages of those family members that are the main parties to the dispute around which the lawsuit revolves. Hence, those children's issues and interests will likely not be at the forefront of the judicial considerations.

That is not to say that personal status judges do not apply overarching child rights principles such as **the right for children to have their best interests considered** in decisions affecting them. As the Sharia judge who was consulted for the study explained, the best interests principle informs judges' rulings. Interpretation of this principle will not always be in line with the spirit of the CRC; however, the example described in Section 4.1 of judges who disagreed on

jurisdiction shows that the Sharia judge may have, depending on the specific circumstances of the case (see below), issued a ruling that was more in line with the rights of the child, specifically the girl's right to be cared for by her family and for institutionalization to be used as a matter of last resort.

Of course, the exact details of the case are not available, so it is not clear what exactly the Sharia judge (or, for that matter, the criminal judge) based his ruling on. This may have been a review of the situation including the ability of the maternal grandmother to properly care for her granddaughter, a conviction that children should stay with family no matter what the circumstances are, or anything in between.

In this regard and on the right to **effective assistance**, the difference between the personal status jurisdiction on the one hand and criminal jurisdiction on the other in terms of assessment of protection and social needs is of note. In the criminal jurisdiction, there are behavioral monitors within the Juvenile court that review the safety and social wellbeing of the juvenile or child in need of protection or care. These behavioral monitors accompany the child throughout the process, and their assessments serve to inform the justice process.

In personal status jurisdictions there are social workers as well, but only at the Family Mediation & Reconciliation Office. The staff of these offices conduct family counselling, provide awareness sessions on marital rights and duties, and support in resolving disputes amicably. It is mandatory for those involved in a lawsuit that revolves around a dispute to, as a first step, attend sessions at this office. If the sessions are not successful, the case is referred to the judge for adjudication. Although the findings of the social worker may inform the eventual ruling of the judge, there is no further involvement of the social worker in legal proceedings that follow.¹²²

As noted in Section 4.2, Jordanian law does not guarantee legal assistance except for criminal cases meeting certain criteria. Free counsel is even less

accessible in the context of personal status cases; Sharia courts do not have any mechanisms in place to ensure that those who are especially vulnerable because they do not have financial means or otherwise, can have access to legal assistance. The only avenue available in such cases is legal aid through an NGO that provides free legal aid; this would require that the child or young victim or witness is aware of the service and can access it somehow. In addition, as was noted before, there is no real representation of lawyers who are specialized in supporting children; without such specialization, the rights of child victims cannot be duly realized.

Specific to the Sharia court, there are no female Sharia judges; in fact, there is a complete absence of female employees.¹²⁴ Such a lack of female representation obstructs women's and girls' access to justice.

During the interviews with the personal status personnel and within the Sharia courts in particular, the Sharia judge interviewed for the purpose of this study stressed that change must primarily come from within the system and expressed doubt that initiatives for example on building capacity of staff to interact in an age-appropriate and gender-responsive manner would be welcomed at this point.¹²⁵

On the right to **be protected from discrimination**: Victims / witnesses below age 15 are discriminated against in that they are granted with the legal age of consent at 18 years old as per set forth in the Personal Status Law. However, the Procedural Sharia Courts Law states that children above age 15 can file a lawsuit.¹²⁶ Reason for this is that as of that age, children can get married.¹²⁷ It is to be noted that in particular for cases of child marriage, in practice the victim of the proceeding, who is a minor, requires a guardian to be able to file a lawsuit against an eventual declaration of marriage, which it is challenging and can indeed expose the child to further negative consequences at family and/or community levels, in addition to the exposure to secondary victimization within the process in front of justice actors.

Rights to **On the rights to be informed and to meaningful participation**: Children whose lives will be affected by a ruling, for example in a custody case, and who are not yet 15 years old are, as a(n unwritten) rule, not asked for their opinion – doing so may in fact be used as an argument to appeal a ruling.¹²⁸

On the rights **to be treated with dignity and compassion**, to be protected from hardship during the justice process, and to **special preventive measures**: No specific measures were identified that aim to support the child / youth victim or witness in these regards.

¹²¹ As discussed in Section 2.2, this policy document was endorsed by the government and as such is the main regulatory instrument determining how to deal with cases of family violence, GBV and child protection.

¹²² KII with Sharia Judge, December 2020. See also Musawah (2017), p.24 (although it should be noted that the information contained therein dates back to before the current Family Protection Law went into force).

¹²³ See Section 3.1.3.

¹²⁴ OXFAM (2018), p.24.

¹²⁵ KII with Sharia judge, December 2020.

¹²⁶ See Section 2.2.

¹²⁷ As explained by the Sharia judge. KII with Sharia judge, December 2020.

¹²⁸ Ibid.

PERSONAL STATUS PROCEEDINGS IN JORDAN: CHILD-SENSITIVE AND VICTIM-CENTERED APPROACHES AND PROCEDURES

Phase	Personal Status procedure	Main actor(s)	Child-sensitive and/or victim-centered measures - or lack thereof
Pre-Trial	Submission of initiatory pleading / petition	Plaintiff or, if they have access, attorney	<ul style="list-style-type: none">• A child below age 15 cannot file a lawsuit.• In this context, child victims and witnesses are typically involved in or affected by the lawsuit because their caregiver(s) is (are) involved in a dispute, not because they suffered or witnessed GBV.• There are no support mechanisms from the personal status courts to support those who are especially vulnerable and/or who do not have financial means to have engage in legal proceedings.• There are no specific staff to support those involved in the legal proceedings through the process.
	Registration of lawsuit	Court administrative staff	<ul style="list-style-type: none">• Although some sources indicate that court administrative staff may be helpful in guiding those involved in legal proceedings through the process, others indicated that they do not play a noteworthy role. None are trained specifically to interact with children.
	Serving of summons		
	Investigation	Sharia Prosecutor (with Sharia law)	<ul style="list-style-type: none">• In specific cases (e.g. custody, proof of marriage / divorce) the Sharia Prosecutor conducts a hearing session to check relevant paperwork with however register the case, in which case children of 15 and above may be heard.
	Reconciliation and mediation	Family Reconciliation & Mediation Office (within Sharia court)	<ul style="list-style-type: none">• Family counselling; awareness raising on marital rights and duties; amicably resolving family disputes without litigation. The officials carrying out the sessions have a social work / psychology / psychosocial support type background.• Sessions are mandatory. If they are not successful, the case will be referred to the court for adjudication by a judge.
Trial	Hearings	Religious judge	<ul style="list-style-type: none">• There are no stipulations in Sharia procedural law for or against hearing children under age 15 in personal status cases, which has led to the practice NOT to hear them.• Although findings from the social worker of the Family Reconciliation & Mediation Office may inform the judgment, there is no social worker involved to support.• No female representation among Sharia judges (or Sharia court staff in general).
		Plaintiff and/or attorney	
		Defendant and/or attorney	
	Decision	Religious judge	<ul style="list-style-type: none">• There is no specific practice or procedure to ensure that rulings are explained to children who are affected by such rulings.
Execution	Appeal; complaints	Loser and/or, if they have access, attorney	<ul style="list-style-type: none">• There are no specific personnel to explain the procedures for appeal. Without a lawyer, it will be difficult to navigate this process.• Supports in the implementation of verdicts.
	Implementation & enforcement of decision	FPD	

5 Conclusions and Recommendations

The mapping of justice sector actors in the criminal and personal status jurisdictions and assessment of the judicial pathways available to child and youth victims and witnesses of GBV reveal that this group does not have access to gender- and age-responsive justice in Jordan. While especially in the criminal justice jurisdiction, efforts have been and continue to be made to ensure that procedures and approaches take into account and cater to children's needs, there are significant barriers in this respect that require urgent action. These include, most importantly, a lack of infrastructure; lack of available practical guidance on gender-responsive and age-appropriate justice procedures for children and youth such as investigative techniques, victim and witness protection frameworks, dispute settlement in domestic violence contexts, specialized legal aid, reintegration; insufficient interaction between the two jurisdictions; limited skills of and prevalent gendered laws and beliefs among justice personnel.

Although some policies and guidance are in place for dealing with GBV cases – namely, the National SOP – these do not comprehensively include all due safeguards pertaining to child victims and witnesses within and/or related with justice procedures in both jurisdictions, criminal and personal status. More importantly, the National SOP do not foresee in a holistic and well-coordinated approach vis-à-vis child victims of GBV who are facing justice procedures, which, among others, negatively affects their ability to reintegrate (for which they may require support for service providers of different sectors). Also, children's rights are, under the current legal framework, dispersed over several laws, which implies a lack of clear legal obligations among relevant government actors vis-à-vis children – and thus a lack of judicial protection for child victims and witnesses facing justice proceedings pertaining to GBV. The aforementioned challenges are exacerbated by the fact that actors in the personal status jurisdiction are not wholly taking part in supporting the national agenda to tackle GBV in that they are not mandated to (and in practice do not) report cases of GBV to FPD.

On the bright side, a gender justice agenda in Jordan is progressively being discussed among different actors, where evidence and effective research,

programmatic and advocacy interventions are to be well assessed, well-coordinated and strongly informed by the justice and other concerned actors in country. This study is the first step in the way.

In light of the findings for the study, the 10 key recommendations were developed with the overall aim to support a targeted agenda in Jordan for gender-responsive and child-sensitive justice:

1. National regulatory framework vis-a-vis child victims and witnesses.

The rights of child victims and witnesses of GBV are dispersed over different laws. While the National SOP do partially consider how to respond to cases of child and adult victims of GBV, it does not consider in detail the justice sector and the interdisciplinary linkages with others, nor witnesses. Also, even if the National SOP are generally aligned with international child rights standards, specific justice-related rights of child victims and witnesses are not foreseen, including reintegration of child GBV victims within the justice chain and post-trial, dual standard victim-offender, secondary victimization risk management plans, etc. A targeted national policy with detailed guidelines for relevant actors within both jurisdictions would help to ensure that the rights of this group are upheld and respected.

2. Build expertise on gender-sensitive interviewing practices and gender-sensitive witness protection frameworks at the judiciary level.

Special investigative and interview techniques must be developed and carefully supervised and should include a gender analysis to inform their design and application in order to assess their impact and reliance. While the national regulatory framework as stated in the first recommendation would need to consider this, more operational toolkits are to be tailored developed and worked with the concerned actors.

3. FPD conference in cases where criminal and family law issues overlap.

Working with relevant stakeholders – judiciary, FPD, NCFA – to enhance the coordination among the different jurisdictions and specifically building on the relatively new FPD practice of conducting

conferences with judges of the two jurisdictions. The guidelines on this procedure, including the roles and responsibilities and with an interdisciplinary approach, are a need to be urgently addressed. An accompanied rolling out process at the governorate level would be required after the guidelines are performed.

4. FPD settlement procedures.

Review of the settlement practice that FPD has started. There are serious concerns on whether in practice, a victim-centered approach is or can be taken when conducting the settlement procedures. Support in this regard could be on the development and roll-out of specific discussion sessions around the needs of child / youth victims of domestic violence such as dignified treatment in questioning, meaningful participation, keeping victims and witnesses informed of proceedings, etc. Then, applying a participatory approach with the concerned actors as well as including the inputs provided by children, a specific procedural document could be developed.

5. Capacity building of judiciary.

The key informants of the civil judiciary confirmed that there is a need and willingness for engaging in capacity building in relation to interpreting and applying laws in a child-friendly, gender-responsive and victim-centered manner. Particularly, as related to child and youth and their judicial treatment. A specific module on this is being developed by Tdh and the University of Jordan. A roundtable with judges to fine tune specific areas for support to build on the module would be smart steps towards the development of tailored and practical training session for them.

6. Reintegration for child victims of GBV.

There is a gap in terms of reintegration of victims of GBV and specifically child victims. Although acknowledged in the National SOP, it is not emphasized in the Family Protection Law, and not mainstreamed in the justice process. For GBV child victims to be able to reintegrate into society there is need for different stakeholders to connect in the justice and social (including child protection) sectors. Such connection needs to happen at national policy level, including development of technical guidance coupled with capacity building of all relevant actors. It is very important to stress on the fact that a resilience-based approach is to be mainstreamed in

the whole process of reintegration of child victims and witnesses of GBV. Focusing on the protective factors, strengths, and potential of the GBV child and youth survivors presents a much more sustainable, gender-responsive and child-friendly way of reintegration, currently lacking at country level.

7. Specialized legal aid for child victims of GBV.

While there are several legal aid NGOs providing free legal counsel to the more vulnerable populations, none of those focus on supporting children, let alone child victims of GBV. To ensure that children's rights are upheld, and their needs met, it is essential for them to have access to support from legal professionals who are specialized in working with children and thus can cater to their needs. The coming work on these areas should focus on working with bodies such as the Jordanian Bar Association to identify lawyers and/or law firms that have capacity and motivation to specialize in working with child victims and witnesses. In addition, Tdh could support such bodies in the development of policies and procedures on how to ensure that legal aid is gender-responsive and age-appropriate, coupled with capacity building through formal training sessions (with a practical approach) and on-the-job. The development of a framework to monitor quality and effectiveness of the legal aid is to be considered.

8. Right to complain on maltreatment in the justice process.

An inspection system with a functioning complaints mechanism is key for ensuring accountability of the overall judicial system. This requires knowledge among the general public of the possibility to submit complaints; also, especially vulnerable groups of the population should be facilitated to submit complaints. Currently, this is not the case, as is evidenced by the relatively low number of complaints and lack of any complaints by children. Working with judicial inspectors could be a good entry point to support accountability in terms of child-sensitive and victim-centered policies and processes, once those are in place and actioned. In this area, working with the Directorate for Inspection, a joint process of review of what are the specific barriers for child victims (or their legal representatives) to access the complaints, what sort of activities could be implemented to raise awareness on the mechanism, etc. could be developed as the first step for analyzing the current challenged and hence, be able to design a framework of action in

terms of inspection. This joint review would be also a very good basis pertaining to a national policy of child victims and witnesses as set forth in recommendation 1.

9. Exploring potential activities with personal status actors. Although, as the Sharia judge who was interviewed for this study, noted, strengthening child-sensitive and victim-centered approaches within the personal status sphere has to come from within the system, it is worth exploring whether there might be openings to start supporting this. To start building report, activities around skills building in child-sensitive and victim-centered ways of working could be coupled with material support type activities, such as the establishment of child-friendly areas in the courts. It would be interesting as well to gain a deeper understanding of the inspection department of the Sharia courts and see whether it might be possible to explore if there might be room to initiate any supporting activities in this area.

10. Working with youth, including through student associations and the media.

More targeted initiatives could be explored and implemented together with youth, around issues such as raising awareness on rights and duties vis-à-vis GBV and avenues for justice. To achieve greater impact, it should be explored to implement such initiatives in collaboration youth in certain leadership roles. Examples include students who are active in student associations of their higher educational institution (e.g., university) or specific faculty (e.g., law, social work, journalism, or forensic medicine); young activists who campaign for social and political change in the areas of gender justice and child/youth protection; bloggers and campaigners who focus on digital awareness in these areas.

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Annex - Key Informant Interview Questions

Question 1: To provide context to your answer, can you share what your role is in your organization?

Question 2: Can you explain, when you deal with a GBV case in which the victim/survivor or witness is a child, what process is followed and what procedures are applied?

Prompts include:

- *Differences compared to dealing with an adult victims/survivors or witnesses?*
- *Differences according to...*
 - *The type of GBV (e.g., domestic violence, sexual violence, honor crimes...)?*
 - *The gender of the child victim/survivor or witness?*
- *Guidelines or rules around informing the child, protective measures, special assistance?*
- *Other actors involved (dedicated support person; specially trained officers for investigation / interrogation; etc.)?*
- *Special facilities – waiting room, courtroom, detention centers?*
- *Reparations and remedies?*
- *Application of dual standard perpetrator – victim?*
- *Interaction between criminal and personal status jurisdictions?*

Question 3: Do you observe any barriers for child victims/survivors or witnesses to access justice? What are they?

Prompts include:

- *Values and attitudes around GBV and children including among justice personnel?*
- *Awareness among children and communities of rights?*
- *Existing capacity of justice personnel?*
- *Available practical guidance for justice personnel?*
- *Existing availability of courts across the country?*
- *Cost / affordability (e.g., travel, lawyer, taking time off work for child or caregiver)?*
- *Availability of effective protection and meaningful redress?*

Question 4: Do you see specific gaps in terms of the process and procedures that girl victims/survivors and witnesses of GBV follow? Which are the most urgent ones? How do you recommend they be addressed?

For prompts, see questions 2 and 3 above.

Question 5: Do you see specific opportunities to further gender-responsive justice specifically for girl victims/survivors or witnesses of GBV? What and why?

For prompts, see questions 2 and 3 above.

Question 6: Do you have any recommendations in terms of other individuals or resources that I should consult for the purpose of this study? What and why?



**Every child in the world
has the right to a childhood.
It's that simple.**



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